

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

MIKKI J. SIMON,

Plaintiff,

V.

MARTIN O'MALLEY,
Commissioner of the Social
Security Administration,

Defendant.

Case No. 22-CV-199-SPS

OPINION AND ORDER AWARDING ATTORNEY FEES

Plaintiff was the prevailing party in this appeal of the Commissioner of the Social Security Administration's decision denying benefits under the Social Security Act. The parties have filed a Stipulated Motion for Attorney Fees in the amount of \$6,700.00 under the Equal Access to Justice Act, 28 U.S.C. § 2412 *et seq.* (Doc. 24).

Upon review of the record herein, the Court finds that the agreed amount is reasonable and that the Commissioner should be ordered to pay it to the Plaintiff as the prevailing party herein. *See* 28 U.S.C. § 2412(d)(1)(A) (“Except as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and other expenses, in addition to any costs awarded pursuant to subsection (a), incurred by that party in any civil action (other than cases sounding in tort)[.]”); *see also Manning v. Astrue*, 510 F.3d 1246, 1251 (10th Cir. 2007) (“The EAJA therefore permits attorney’s fees reimbursement to financially eligible prevailing parties, who make a proper application, and not to their attorneys.”).

Accordingly, IT IS ORDERED that the Stipulated Motion for Attorney Fees Pursuant to the Equal Access to Justice Act (Doc. 28) is hereby GRANTED, and Plaintiff's Motion for Award

of Attorney Fees Pursuant to the Equal Access to Justice Act (Doc. 27) is hereby denied as MOOT in light of stipulated motion. The Commissioner is ordered to pay attorney fees in the amount of \$6,700.00 to the Plaintiff as the prevailing party.

IT IS FURTHER ORDERED that if the Plaintiff's attorney is subsequently awarded any fees pursuant to 42 U.S.C. § 406(b)(1), said attorney shall refund the smaller amount of such fees to the Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 6th day of November, 2024.



STEVEN P. SHREDER
UNITED STATES MAGISTRATE JUDGE